

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL J. WILLIS,	:	CIVIL ACTION NO. 1:16-CV-1015
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
NANCY A. BERRYHILL,¹	:	
	:	
Defendant	:	

ORDER

AND NOW, this 17th day of September, 2018, upon consideration of the report (Doc. 30) of Magistrate Judge William I. Arbuckle, recommending that the court grant the appeal (Doc. 1) of Michael J. Willis (“Willis”) from the decision of the administrative law judge (“ALJ”) denying Willis’s application for a period of disability and disability insurance benefits, and remand this matter for further proceedings in accordance with sentence four of 42 U.S.C. § 405(g), wherein Judge Arbuckle opines that the ALJ’s decision is not “supported by substantial evidence,” 42 U.S.C. § 405(g), and the court noting the Commissioner of Social Security (“Commissioner”) objected to the report, (Doc. 31); see FED. R. CIV. P. 72(b)(2), and following *de novo* review of the contested portions of the report, see *Behar v. Pa. Dep’t of Transp.*, 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing *Sample v. Diecks*, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(C)), and applying a

¹ Due to the Federal Vacancies Reform Act, 5 U.S.C. § 3345 *et seq.*, former acting Commissioner of Social Security Nancy A. Berryhill is currently presiding as the Deputy Commissioner for Operations of the Social Security Administration. For consistency purposes, however, we continue to refer to Ms. Berryhill as “the Commissioner.”

clear error standard of review to the uncontested portions, see Cruz v. Chater, 990 F. Supp. 375, 376-78 (M.D. Pa. 1999), the court being in agreement with Judge Arbuckle that the decision of the ALJ is not “supported by substantial evidence,” 42 U.S.C. § 405(g); Fargnoli v. Massanari, 247 F.3d 34, 38 (3d Cir. 2001), and finding Judge Arbuckle’s analysis to be thorough, well-reasoned, and fully supported by the record, and further finding the Commissioner’s objection to be without merit and squarely addressed by the report,² it is hereby ORDERED that:

1. The report (Doc. 30) of Magistrate Judge Arbuckle is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Willis and against the Commissioner as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 30) of Magistrate Judge Arbuckle.

² In his report, Judge Arbuckle opines, *inter alia*, that the ALJ failed to adequately explain her decision to assign “great weight” to the opinions of non-examining state agency psychological consultant John Rohar, Ph.D. (“Dr. Rohar”). (See Doc. 30 at 16-20). The Commissioner objects to Judge Arbuckle’s analysis, suggesting that the report risks a “ping-pong game in search of a perfect decision” between the district court and the ALJs. (See Doc. 31 at 2-3 (citations and internal quotation marks omitted)). We disagree. The report requires exactly what long-settled precedent demands: that the ALJ explain her reasons for according weight among record evidence. See Cotter v. Harris, 642 F.2d 700, 706 (3d Cir. 1982) (noting that the need for a well-articulated explanation is “particularly acute” when, as here, the ALJ “has rejected relevant evidence or . . . there is conflicting probative evidence in the record”). As Judge Arbuckle notes, the ALJ in the matter *sub judice* merely states that she “agrees” with Dr. Rohar’s opinions and follows her statement with a citation to those opinions. She fails to explain *why* she agrees with him as mandated by decisional law and applicable regulations. We will adopt Judge Arbuckle’s *ratio decidendi* on this point in its entirety; the Commissioner’s objection is overruled.

4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania